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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,820	04/25/2001	Jochen Wurtz	514413-3872	6300

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FROMMER LAWRENCE & HAUG
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NEW YORK, NY 10151

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,820

Applicant(s)

WURTZ ET AL.

Examiner

Alton N. Pryor

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 15-18, 20-25 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 15-18, 20-25 and 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

I. Duplicate claim warning for claims 30,16, and 17 under 37 CFR 1.75 will not be maintained for reason on record and reason as follows. Applicant is correct in that claims have different limitations and therefore are not duplicates.

II. Rejection of claims 15,17,18,20-25,28,30-32 under 35 USC 102(e) / 103(a) as being anticipated by and obvious over Hirokawa will not be maintained for reason on record and reason as follows. The English Translation of the German Priority Document DE 100 20 671.9 has been provided by Applicant.

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-18,28,30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishi et al. (JP 11315004; 11/16/99). Nishi teaches a composition comprising dialkyl sulfosuccinate salts and a poorly water soluble agrochemical (Bensulfuron-Me, Chlorsulfuron). Nishi teaches dissolving the composition in water. Bensulfuron-Me and Chlorsulfuron are herbicides employed to control weed growth. See abstract.

Claims 15-18,28,30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasui et al. (JP 10330202; 12/15/81). Yasui teaches an aqueous herbicide

composition comprising dialkyl sulfosuccinate salts and an agrochemical (Bensulfuron-Me, Imazosulfuron). Bensulfuron-Me and Imazosulfuron are herbicides employed to control weed growth. See abstract.

Claims 15-18,28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kadowaki. (JP 10182302; 7/7/98). Kadowaki teaches an aqueous agrochemical composition comprising dialkyl sulfosuccinate salts and an agrochemical (Imazosulfuron). Kadowaki teaches dissolving the composition in water. Imazosulfuron is a herbicide employed to control weed growth. See abstract.

Claims 15-18,28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa. (JP 10182302; 7/7/98). Hasegawa teaches a pesticide tablet composition comprising dialkyl sulfosuccinate salts and an agrochemical (Imazosulfuron). Hasegawa teaches dissolving the tablet in water. Imazosulfuron is a herbicide employed to control weed growth. See abstract.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishi as applied to claims 15-18,28,30-32 above. Nishi teaches all that is recited in claims 21-25 except for the invention comprising the instant amounts or ingredients. It would have been obvious to one having ordinary skill in the art to determine the

optimum amount of ingredients. One would have been motivated to do this in order to develop an invention that would have been most effective in controlling weeds.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasui as applied to claims 15-18,28,30-32 above. Yasui teaches all that is recited in claims 21-25 except for the invention comprising the instant amounts or ingredients. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of ingredients. One would have been motivated to do this in order to develop an invention that would have been most effective in controlling weeds.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadowaki as applied to claims 15-18,28,30-32 above. Kadowaki teaches all that is recited in claims 21-25 except for the invention comprising the instant amounts or ingredients. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of ingredients. One would have been motivated to do this in order to develop an invention that would have been most effective in controlling weeds.

Claims 20-25,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa as applied to claims 15-18,28,30-32 above. Hasegawa teaches all that is recited in claims 21-25,29 except for the invention comprising the instant amounts or ingredients. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of ingredients. One would have been motivated to do this in order to develop an invention that would have been most effective in controlling weeds. In addition, Hasegawa does not teach the invention comprising iodosulfuron.

Art Unit: 1616

However, it would have been obvious to one having ordinary skill in the art to modify the invention taught by Hasegawa to include iodosulfuron. One having ordinary skill in the art would have been motivated to do this since iodosulfuron is a species in the sulfonylurea genus used to control weed growth.

Election Status

The elected invention comprising sodium di-(2-ethylhexyl)sulfosuccinate and isodosulfuron-methyl is not allowable. See Hasegawa's rejections above.

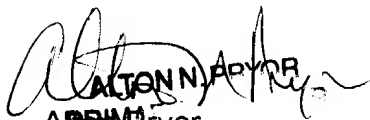
Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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